

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Orlando Garcia,**

Plaintiff,

v.

**Feng Haung Investment L.L.C.,** a  
California Limited Liability  
Company;  
**Cam Huong, Inc.,** a California  
Corporation

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Orlando Garcia complains Feng Haung Investment L.L.C., a California Limited Liability Company; Cam Huong, Inc., a California Corporation; and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff suffers from Cerebral Palsy. He has manual dexterity issues. He cannot walk. He uses a wheelchair for mobility.

2. Defendant Feng Haung Investment L.L.C. owned the real property located at or about 702 International Blvd, Oakland, California, in May 2021.

1       3. Defendant Feng Haung Investment L.L.C. owns the real property  
2 located at or about 702 International Blvd, Oakland, California, currently.

3       4. Defendant Cam Huong, Inc. owned Cam Huong located at or about 702  
4 International Blvd, Oakland, California, in May 2021.

5       5. Defendant Cam Huong, Inc. owns Cam Huong (“Restaurant”) located  
6 at or about 702 International Blvd, Oakland, California, currently.

7       6. Plaintiff does not know the true names of Defendants, their business  
8 capacities, their ownership connection to the property and business, or their  
9 relative responsibilities in causing the access violations herein complained of,  
10 and alleges a joint venture and common enterprise by all such Defendants.  
11 Plaintiff is informed and believes that each of the Defendants herein is  
12 responsible in some capacity for the events herein alleged, or is a necessary  
13 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
14 the true names, capacities, connections, and responsibilities of the Defendants  
15 are ascertained.

16  
17       **JURISDICTION & VENUE:**

18       7. The Court has subject matter jurisdiction over the action pursuant to 28  
19 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
20 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

21       8. Pursuant to supplemental jurisdiction, an attendant and related cause  
22 of action, arising from the same nucleus of operative facts and arising out of  
23 the same transactions, is also brought under California’s Unruh Civil Rights  
24 Act, which act expressly incorporates the Americans with Disabilities Act.

25       9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
26 founded on the fact that the real property which is the subject of this action is  
27 located in this district and that Plaintiff's cause of action arose in this district.

**FACTUAL ALLEGATIONS:**

10. Plaintiff went to the Restaurant in May 2021 with the intention to avail himself of its goods or services motivated in part to determine if the defendants comply with the disability access laws.

11. The Restaurant is a facility open to the public, a place of public accommodation, and a business establishment.

12. Unfortunately, on the date of the plaintiff's visit, the defendants failed to provide wheelchair accessible paths of travel in conformance with the ADA Standards as it relates to wheelchair users like the plaintiff.

13. The Restaurant provides paths of travel sales counters to its customers but fails to provide any wheelchair accessible paths of travel.

14. A problem that plaintiff encountered was that there were unramped steps at the entrance of the Restaurant.

15. Plaintiff believes that there are other features of the paths of travel that likely fail to comply with the ADA Standards and seeks to have fully compliant paths of travel available for wheelchair users.

16. On information and belief, the defendants currently fail to provide wheelchair accessible paths of travel.

17. Additionally, on the date of the plaintiff's visit, the defendants failed to provide wheelchair accessible parking in conformance with the ADA Standards as it relates to wheelchair users like the plaintiff.

18. The Restaurant provides parking to its customers but fails to provide any wheelchair accessible parking.

19. One problem that plaintiff encountered was that there was no accessible parking whatsoever in the parking lot.

20. Plaintiff believes that there are other features of the parking that likely fail to comply with the ADA Standards and seeks to have fully compliant parking available for wheelchair users.

1 21. On information and belief, the defendants currently fail to provide  
2 wheelchair accessible parking.

3 22. These barriers relate to and impact the plaintiff's disability. Plaintiff  
4 personally encountered these barriers.

5 23. As a wheelchair user, the plaintiff benefits from and is entitled to use  
6 wheelchair accessible facilities. By failing to provide accessible facilities, the  
7 defendants denied the plaintiff full and equal access.

8 24. The failure to provide accessible facilities created difficulty and  
9 discomfort for the Plaintiff.

10 25. The defendants have failed to maintain in working and useable  
11 conditions those features required to provide ready access to persons with  
12 disabilities.

13 26. The barriers identified above are easily removed without much  
14 difficulty or expense. They are the types of barriers identified by the  
15 Department of Justice as presumably readily achievable to remove and, in fact,  
16 these barriers are readily achievable to remove. Moreover, there are numerous  
17 alternative accommodations that could be made to provide a greater level of  
18 access if complete removal were not achievable.

19 27. Plaintiff will return to the Restaurant to avail himself of its goods or  
20 services and to determine compliance with the disability access laws once it is  
21 represented to him that the Restaurant and its facilities are accessible. Plaintiff  
22 is currently deterred from doing so because of his knowledge of the existing  
23 barriers and his uncertainty about the existence of yet other barriers on the  
24 site. If the barriers are not removed, the plaintiff will face unlawful and  
25 discriminatory barriers again.

26 28. Given the obvious and blatant nature of the barriers and violations  
27 alleged herein, the plaintiff alleges, on information and belief, that there are  
28 other violations and barriers on the site that relate to his disability. Plaintiff will

1 amend the complaint, to provide proper notice regarding the scope of this  
 2 lawsuit, once he conducts a site inspection. However, please be on notice that  
 3 the plaintiff seeks to have all barriers related to his disability remedied. See  
 4 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
 5 encounters one barrier at a site, he can sue to have all barriers that relate to his  
 6 disability removed regardless of whether he personally encountered them).

7  
 8 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
 9 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
 10 Defendants.) (42 U.S.C. section 12101, et seq.)

11 29. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 12 again herein, the allegations contained in all prior paragraphs of this  
 13 complaint.

14 30. Under the ADA, it is an act of discrimination to fail to ensure that the  
 15 privileges, advantages, accommodations, facilities, goods and services of any  
 16 place of public accommodation is offered on a full and equal basis by anyone  
 17 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
 18 § 12182(a). Discrimination is defined, inter alia, as follows:

- 19 a. A failure to make reasonable modifications in policies, practices,  
 20 or procedures, when such modifications are necessary to afford  
 21 goods, services, facilities, privileges, advantages, or  
 22 accommodations to individuals with disabilities, unless the  
 23 accommodation would work a fundamental alteration of those  
 24 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 25 b. A failure to remove architectural barriers where such removal is  
 26 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
 27 defined by reference to the ADA Standards.
- 28 c. A failure to make alterations in such a manner that, to the

1 maximum extent feasible, the altered portions of the facility are  
2 readily accessible to and usable by individuals with disabilities,  
3 including individuals who use wheelchairs or to ensure that, to the  
4 maximum extent feasible, the path of travel to the altered area and  
5 the bathrooms, telephones, and drinking fountains serving the  
6 altered area, are readily accessible to and usable by individuals  
7 with disabilities. 42 U.S.C. § 12183(a)(2).

8 31. When a business provides paths of travel, it must provide accessible  
9 paths of travel.

10 32. Here, accessible paths of travel have not been provided in conformance  
11 with the ADA Standards.

12 33. When a business provides parking for its customers, it must provide  
13 accessible parking.

14 34. Here, accessible parking has not been provided in conformance with the  
15 ADA Standards.

16 35. The Safe Harbor provisions of the 2010 Standards are not applicable  
17 here because the conditions challenged in this lawsuit do not comply with the  
18 1991 Standards.

19 36. A public accommodation must maintain in operable working condition  
20 those features of its facilities and equipment that are required to be readily  
21 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

22 37. Here, the failure to ensure that the accessible facilities were available  
23 and ready to be used by the plaintiff is a violation of the law.

24  
25 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
26 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
27 Code § 51-53.)

28 38. Plaintiff repleads and incorporates by reference, as if fully set forth

1 again herein, the allegations contained in all prior paragraphs of this  
2 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
3 that persons with disabilities are entitled to full and equal accommodations,  
4 advantages, facilities, privileges, or services in all business establishment of  
5 every kind whatsoever within the jurisdiction of the State of California. Cal.  
6 Civ. Code §51(b).

7 39. The Unruh Act provides that a violation of the ADA is a violation of the  
8 Unruh Act. Cal. Civ. Code, § 51(f).

9 40. Defendants’ acts and omissions, as herein alleged, have violated the  
10 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s  
11 rights to full and equal use of the accommodations, advantages, facilities,  
12 privileges, or services offered.

13 41. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
14 discomfort or embarrassment for the plaintiff, the defendants are also each  
15 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
16 (c).)

17  
18 **PRAYER:**

19 Wherefore, Plaintiff prays that this Court award damages and provide  
20 relief as follows:

21 1. For injunctive relief, compelling Defendants to comply with the  
22 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
23 plaintiff is not invoking section 55 of the California Civil Code and is not  
24 seeking injunctive relief under the Disabled Persons Act at all.

25 2. For equitable nominal damages for violation of the ADA. See  
26 *Uzuegbunam v. Preczewski*, --- U.S. ---, 2021 WL 850106 (U.S. Mar. 8, 2021)  
27 and any other equitable relief the Court sees fit to grant.  
28

1        3. Damages under the Unruh Civil Rights Act, which provides for actual  
2 damages and a statutory minimum of \$4,000 for each offense.

3        4. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
4 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

5  
6 Dated: May 11, 2021

CENTER FOR DISABILITY ACCESS

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8 By: \_\_\_\_\_



9 Amanda Seabock, Esq.  
10 Attorney for plaintiff  
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